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July 1, 2022

VIA ECF

Hon. John G. Koeltl
Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street
New York, New York 10007-1312

Re: *Hachette Book Group, Inc., et al. v. Internet Archive, et al.*, 20-cv-04160-JGK

Dear Judge Koeltl:

We write on behalf of plaintiffs Hachette Book Group, Inc., HarperCollins Publishers LLC, John Wiley & Sons, Inc. and Penguin Random House LLC (the “Plaintiffs”). Pursuant to a joint call with Chambers earlier this afternoon, we write jointly on behalf of the Plaintiffs and Defendant Internet Archive to request that certain exhibits and deposition testimony to be annexed to the parties’ respective cross-motions for summary judgment be filed under seal. The exhibits and testimony have been designated by the respective parties as either “Confidential” or “Attorneys’ Eyes Only” pursuant to the October 8, 2020 Stipulation and Protective Order (ECF No. 39) in this action.

The parties’ cross-motions are due to be filed on July 7, 2022. Unless Your Honor directs otherwise, we propose to file our respective motion papers (including Local Rule 56.1 Statements, Memoranda of Law, and supporting declarations) via ECF on July 7, with references in the motion papers to material designated Confidential or Attorney’s Eyes Only (if any) redacted. Given that several of the exhibits to be filed under seal are complex files that would be impractical to file in PDF-A form via ECF, upon this letter being so-ordered, we will then submit unredacted sealed versions of all filings on disc (or in whatever form Your Honor prefers) to the Clerk of the Court.¹ Once all motion briefings are completed by October 7, 2022, the parties will submit unredacted courtesy copies to Chambers, consistent with Your Honor’s rules.

We thank the Court for its consideration of this matter.

¹ In a separate case, *Andy Warhol Foundation for Visual Arts, Inc. v. Goldsmith*, No. 1:17-cv-02532-JGK (S.D.N.Y.), the Court approved the parties’ joint request to similarly file unredacted sealed versions of documents on disc to the Clerk of the Court that were annexed to those parties’ respective cross-motions for summary judgment. See No. 1:17-cv-02532-JGK, ECF No. 50.

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Respectfully submitted,

Davis Wright Tremaine LLP

/s/ Elizabeth A. McNamara

Elizabeth A. McNamara

cc: To all counsel of record (via ECF)